

Hand-delivered

May 27, 2003

Mr. Everett Millais
Executive Officer
Ventura Local Agency Formation Commission
County Government Center
Hall of Administration
800 S. Victoria Avenue
L# 1850
Ventura, CA 93009

RECEIVED

MAY 27 2003

LAFCO

RE: Violation by the City of Fillmore of California Government Code Section 56375 paragraph (e) with respect to the Fillmore Pacific River Oak TTR 5304 Annexation.

Dear Mr. Millais:

California Government Code Section 56375 (e) states:

...No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the rezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the rezoning in the application to the commission.

After LAFCO's approval of the Fillmore Pacific River Oak Annexation by a 4-3 vote on December 4, 2002 the project was sold by Darling to Griffin Industries in January 2003. Griffin applied for a major modification to the project to remove the 22 duplex and 6 triplex units thereby reducing the total number of units from 71 units to 63 units. This reduced the effective zoning from RM (Residential Medium) to RL (Residential Low). The density under the original project was low enough to qualify for Residential Low Zoning, but duplexes and triplexes are not allowed in Residential Low. Residential Medium allows duplexes and triplexes and also conformed to the then General Plan Land Use designation. Since zoning establishes generally a maximum but not a minimum density no actual zone change was probably required by the proposed major modification.

At the December 4, 2002 LAFCO Hearing there was considerable controversy regarding the annexation. Commissioner Zaragoza provided the swing vote in the 4-3 decision in favor of annexation. In justifying his decision Mr. Zaragoza stated "...and also the last thing that is extremely important is the affordability of homes. We need homes, you know. We have a lot of workers, a lot of employees

here in Ventura County that cannot afford to live and buy here in Ventura County. So that's, I think, (an) extremely important part of the whole process here..." It is possible to assume that the annexation was approved, in spite of numerous shortcomings, partially on the basis of the affordable housing it was supposed to provide.


The City of Fillmore has pursued many of the necessary legal steps to effect the proposed major modification to TTR 5304. Public Notice was provided. (See the enclosed Certificate of Publication. I've highlighted the Zone Change 01-01 item.) Since the property was recently annexed all it had was a rezoning designation. The noticed public hearings were continued and final action was taken on April 22, 2003. Apparently no formal action was taken with regard to formally setting the zoning on the property. The enclosed April 22, 2003 Agenda makes no mention of any zoning action even though the Staff Report dated April 17, 2003 discusses the introduction of an unnumbered ordinance to formally designate the land use on the property as Residential Medium. (Enclosed is a copy of that Staff Report with the comment highlighted.)

At the final April 22, 2003 hearing we learned that River Oaks was going to become a 63 lot test for the proposed Heritage Valley Parks Development by Griffin. The single family dwellings were going to have up to 3800 sq. ft. with 4 bedrooms and 4 baths. Such homes are not truly affordable to many working families. At the April 22, 2003 hearing the Fillmore City Planner, Kevin McSweeney, stated with regard to the project. "It was rezoned and is now zoned as Residential Low." That is not exactly accurate since the City has yet to take formal action establishing the zoning. At that hearing I also pointed out the apparent violation of California Government Code Section 56375 (e).

The Fillmore City Council on May 13, 2003 adopted their new General Plan with its new Land Use Element that shows the River Oaks property zoned Residential Low instead of Residential Medium as it was designated going through the annexation process. (Enclosed is a copy of the new Land Use Map with the Land Use Categories attached.) At the May 13, 2003 hearing I was able to point out an indisputable violation of California Government Code Section 56375 (e).

Beginning with an application for annexation by the City of Fillmore that contained many misrepresentations and continuing through a less than forthright oral presentation before LAFCO it doesn't surprise me that the City of Fillmore is disregarding their obligations under California Government Code Section 56375 (e). It is my hope that LAFCO will emphasize to the City of Fillmore the importance of adhering to State Law.

Sincerely,


Dwight V. Moore
1800 Grand Ave.

Fillmore, CA 93015